

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MANUEL ARIAS,

Petitioner,

v.

B.O.P. OF NEVADA, *et al.*,

Respondents.

Case No. 3:20-cv-00242-MMD-WGC

ORDER

I. SUMMARY

This is a habeas corpus action under 28 U.S.C. § 2254. The Court had directed Petitioner Manuel Arias to pay the filing fee, which he has done. Currently before the Court is the petition for writ of habeas corpus ("Petition") (ECF No. 1-1). The Court now has reviewed the Petition under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. The Petition is without merit on its face, and the Court denies the Petition.

II. BACKGROUND

Arias is convicted of manslaughter, and he has been sentenced to life imprisonment with eligibility for parole starting after 10 years. Arias challenged the validity of the judgment of conviction in *Arias v. McDaniel*, Case No. 3:02-cv-00454-DWH-VPC. In that action, the Court found the Petition to be too vague, and the Court directed Arias to file an amended petition. Arias did not file an amended petition in the allotted time, and the Court dismissed the action without prejudice.

In the current action, Arias does not challenge the validity of the judgment of conviction. He challenges the validity of the denial of parole.

///

1 **III. DISCUSSION**

2 **A. Ground 1 is without merit**

3 In ground 1, Arias cites *Zadvydas v. Davis*, 533 U.S. 678 (2001),¹ to argue that
4 indefinite detention violates substantive due process rights. However, *Zadvydas* involved
5 an alien subject to removal from the United States who effectively was held indefinitely
6 under 8 U.S.C. § 1231(a)(6) because no country would take him. Arias is imprisoned for
7 life, with eligibility for parole, because he was convicted of a crime, and the Court
8 presumes that the judgment of conviction is valid. *Zadvydas* is inapplicable to Arias' case.

9 Arias also argues that he has a constitutionally protected liberty interest in parole.
10 He does not. *Moor v. Palmer*, 603 F.3d 658, 662-63 (9th Cir. 2010); *see also* NRS §
11 213.10705 (parole is an act of legislative grace, and no person has a right to be released
12 on parole).

13 Ground 1 is without merit on its face. Reasonable jurists would not find this
14 conclusion to be debatable or wrong, and the Court will not issue a certificate of
15 appealability for ground 1.

16 **B. Ground 2 is without merit**

17 In ground 2, Arias alleges that the parole board did not consider the circumstances
18 and facts in his parole hearing, then his request for reconsideration was denied. Again,
19 Arias does not have a constitutionally protected liberty interest in parole. *Moor*, 603 F.3d
20 at 662-63. To the extent that Arias is claiming that the parole board did not follow the
21 correct procedures, he is alleging only a violation of state law. "A federal court may not
22 issue the writ on the basis of a perceived error of state law." *Pulley v. Harris*, 465 U.S. 37,
23 41 (1984).

24 Ground 2 is without merit on its face. Reasonable jurists would not find this
25 conclusion to be debatable or wrong, and the Court will not issue a certificate of
26 appealability for ground 2.

27
28

¹Arias cited the reversed decision of the Fifth Circuit. (ECF No. 1-1 at 3.) The Court
has corrected the citation to the Supreme Court's decision.

